

COMMISSIONERS APPROVAL

CHILCOTT *gq*

LUND *BT*

THOMPSON *at*

TAYLOR (Clerk & Recorder)

Date.....February 27, 2006

Members Present..... Commissioner Greg Chilcott,
Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board met with Civil Counsel James McCubbin, County Attorney George Corn, Interim Planning Director Karen Hughes, Planner Renee Van Housen and Road Supervisor David Ohnstad. Also present at this meeting was Developer Ken Senn, the Developer of Grant Meadows Subdivision on Grantsdale Road and Golf Course Road.

George stated they received a request for discussion by the Attorney who represents the Developer of Arrow Hill II Subdivision. The Attorney cited cases from other states, but raised a constitutional issue that it would be a violation of rights if they had to pave the whole road. There are three other developments on this road and therefore he is looking at a proportionate share. Karen stated the proportionate share is for subdivisions over 20 acres. Currently there is no way that these other developments are required to pay for any portion of the road. George stated Dave has given a rough draft of the costs to bring the road up to County standards.

George stated it is important to change the subdivision regulations to share the costs of these roads.

Commissioner Chilcott asked if the developer could recover a proportionate part of the costs, like the power companies do when gas lines, etc., go in. George stated this is a reasonable rule, but our subdivision regulations do not cover this. He stated this type of recovery cost is constitutional and legal. George stated they could not do this with the Arrow Hill II Subdivision because the regulations do not allow this.

There was discussion of how the rebate program would work as other subdivisions come in. George stated different states do it different ways, but the Planning Department could research it for the Commissioners. George stated the key issue is that a good road is developed and all of the developers must pay their fair share. Currently Arrow Hill II Subdivision is bringing up a good point that it is against their rights to be charged the whole cost.

James stated the regulations should be amended to address a recovery cost, if that is the direction of the Board. He stated the process of public hearings has to be followed. Karen stated SB 116 does not address this. George stated the best way to address the issue with Arrow Hill II is to see if the other developers are willing to participate in this.

Ken stated he discussed this issue with Brad Mildenberger and John Leavy of the Planning Office. He is totally committed to do his subdivision correctly. He found out Feb 15th that this was an issue, but he was unprepared to meet other requirements not within the conditional approval. He said he sought information from the road department well over a year ago; he received nothing. He is not prepared to meet any further financial obligations.

David stated the citizens could request preliminary pro rata assessment. That was not done on Grants Meadows. In regard to the issue that George addressed, the program recovery costs usually stretch out for sixty months. As property is developed a pro rata share is paid. The issue on Golf Course Road is that there is considerable room for development. He stated they might find out in several years that the road needs to meet further standards, with the growth that is anticipated. He stated the road should be built to the full standards that utilize a 5-year period of time to have the developer obtain his recovery costs. He stated the County should develop an assessment area, defining the geographical area of any development that would occur within the time recovery period.

Commissioner Chilcott suggested they utilize a 7-year recovery cost, which would agree with the pro rata regulation. Karen stated in their research they found Missoula County has the recovery costs written into their subdivision regulations, or allow an RSID waiver to be signed. Instead of utilizing the recovery costs the County allows the RSID waiver to be signed for a road that is less than 500'. James stated they should not require the recovery and waiver, but one or the other, as that would legally be considered a 'double hit' to the developer.

Commissioner Chilcott noted that several orchards tracts would become residential units in the future. He suggested the RSID waiver be done for that future development. James stated the Missoula County regulations require paving or initiate a RSID, and if it fails they must do the reimburse agreement or waiver to reimbursement. If the RSID failed the waiver to reimbursement would be difficult.

George stated the RSID could be much broader in scope than to address the road. It could address water and sewer. David stated the potential development should be assessed and they should pay into the recovery contract. David suggested they prepare the projection up front in an assessment district on those properties that can be developed. George asked if this projection could be speculative because of interest rates, etc. He stated that issue could be a problem. James concurred.

James stated he likes the wording of the Missoula County Regulations because it requires them to address the RSID. George and James agreed a reasonable basis needs to be established or it will be challenged.

James stated they could develop this within a reasonable length of time; the problem is other issues they are currently working on. George agreed the issue on this is the request for discussion of the potential issue of a violation of someone's constitutional rights.

Commissioner Chilcott agreed the developer has the right to have information back on the pro rata shares within a reasonable length of time.

George stated he understands Ken Senn's problem. Ken stated as of April 2005 he had no response from the Road Department. Karen stated Ken's development exceeds 21 lots, but the assumption is that Grantsdale is a County-standard road. Ken's issue is he is already in the time of final plat.

Commissioner Lund asked if the figures have been done for Arrow Hill II. David stated there are no figures for this, just a laundry lists on what needs to be done on Golf Course Road.

James stated there is no figure on improving the road, because a contractor must prepare a bid for the work. Renee agreed, stating there is some confusion between the pro rata share and road improvements. Pro Rata shares are calculated by the Road Department. James stated tracking the pro rata is important as different developers will pay the pro rata, unless there is a reimbursement or assessment districts.

Karen stated Missoula County addressed Lower Mill Creek Road, deciding what they wanted the road to look like in several years. Then, as the new developments occur, the developers must pay into the share of road costs. This is one of the conditions of approval.

It was agreed the assessment districts be developed geographically for major road corridors. It was also agreed the amounts must be equitable to all parties. Karen stated Gallatin County has gone through the impact fee study and now has impact fees, and the roads have a separate impact fee. It was agreed the pro rata should continue to exist for those areas that are not in assessment areas.

Commissioner Thompson asked if there is a legal concern with this letter. James stated there is a concern, but the regulations have not been challenged. Until the regulations are changed, they must follow the current regulations. He stated he would like to see Planning, Roads and legal counsel weigh in on this and come back with information in order to make a decision. David stated the change is easy, but the implementation might be difficult. Karen agreed it will be important to dovetail any changes that are made, so they don't have a bigger mess. She stated the Commissioners should address the priority of this issue.

James stated they should recognize an RSID because it will trump the assessment districts, etc. He also noted because of the current regulations they could not force the developers to become involved in this road upgrade. George suggested the Commissioners write letters to the other four developers and see if they are interested in becoming involved in the road upgrades. George also suggested a letter be sent to the developer of the Flat Iron Subdivision, which has a proposed 400-500 lots.

The Board concurred that a letter would be sent out under their cover. George will prepare this letter. James asked with what priority the Commissioners want Karen and him to address these recovery costs.

Commissioner Chilcott stated they could not change what is in effect right now, so the issue of Arrow Hill II will have to 'sort itself out'.

James felt the initial draft could be done by the end of the week, but he would have to drop quite a few things. It was agreed James should work with Karen and David, and finish the original draft by the middle of March. The Commissioners agreed the Planning Board should weigh in on the issue after the initial draft has been reviewed by the Commissioners. The next meeting, to review the draft of the amendments to the regulations, will be March 21st at 10:00 a.m.

In other business, the Board of County Commissioners met with Joanna Hamilton of the 9-1-1 Center, regarding the paperwork involved in warrants and protection orders. Joanna stated a staff member of the Sheriff's office should enter the information.

Commissioner Chilcott commented that employees do not vote for the duties that make up their job. It must be determined where the job can be done most efficiently and economically. People cannot simply say the task doesn't fall within their job description.

Joanna said the 9-1-1 Center is not a law enforcement agency; they should not be entering the information without an agreement with the State, and receive suitable compensation.

Commissioner Chilcott asked what she felt would be the most efficient solution. Joanna asked if the Detention secretary could do it.

Commissioner Chilcott said a position must be determined and taken to the Sheriff. It would probably cost more to be done by the Sheriff's staff.

Commissioner Thompson said it shouldn't cost more to be done by Sheriff's staff. Their budget has been increased every year. He added that once the ORI (Originating Agency Identifier Number) is issued to the 9-1-1 Center, they could no longer enter the Sheriff's paperwork. Joanna agreed, without a signed agreement, they could not legally be involved with the paperwork.

Commissioner Thompson asked if Ravalli County has the only 9-1-1 Center where the dispatchers do this job. Joanna said they do it in Bozeman. The others have a Records Department or Warrants Clerk.

Commissioner Thompson said one department should not dictate the duties of another department. He added the Sheriff's Office is top-heavy, with more administrators than secondary personnel.

Joanna said the Under Sheriff's office was doing warrants and protection orders. Under the new agreement, it is not the duty of the 9-1-1 Center staff. The duties of the 9-1-1 Center dispatchers are the first priority. It is incumbent on the employee to concentrate totally on the job, as misinformation can cause catastrophic repercussions. The paperwork involved with warrants and protection orders also must be handled with the utmost care for accuracy. Emergency calls in the middle of this procedure are counter productive to accurate data entry. She added she would be happy to help in the training process.

Commissioner Thompson said the Sheriff's office should handle the job.

Joanna said James McCubbin, Deputy County Attorney, agreed the 9-1-1 Center should not do the job, and she notified the Sheriff of that fact more than 30 days ago.

Commissioner Chilcott said the Sheriff appears to want to retain control over the board, but not responsibility for the 9-1-1 Center.

Joanna reminded the Board of County Commissioners that a State audit could take out the terminals.

Commissioner Thompson said the Sheriff should assign someone from his staff to do this; it is a responsibility of law enforcement.

A meeting with the Board of County Commissioners, the Sheriff, Joanna Hamilton, and James McCubbin was set for 1:15 pm on February 27, 2006.

In other business, Commissioner Lund participated in a conference call in regard to polling place grants for handicap accessibility.

Commissioner Chilcott attended a MR. TMA meeting in Missoula during the afternoon hours.